next of kin; since a child can recover the loss of that care, counsel, and training which might have been reasonably expected from a parent. *Tilley* v. *P. Ry. Co.*, 29 N. Y. 252. While the loss of the society and companionship of a son by a father is not such a pecuniary loss. *American Ry. Co.* v. *Didricksen, supra.* And a wife cannot recover for the loss of her husband's society. *Atchison, T & S. F. Ry. Co.* v. *Wilson* (C. C. A.), 48 Fed. 57. Furthermore it is necessary to show that a beneficiary who is a mere next of kin was dependent on the deceased before any recovery can be had under the statute, while this is not necessary in the case of a surviving widow or children. *35 Stat. at L. 65, Chap. 149; U. S. Comp. Stat. 1913, § 8657.* But when as in the principal case, the beneficiaries are a widow and infant children, there are no beneficiaries which fall under the head of next of kin, and an instruction on an abstract proposition involving beneficiaries under the head of next of kin is without the issue, and as such an instruction is calculated to mislead the jury it should not be given. *B. & O. Ry. Co.* v. *Ferris*, 94 Va. 82 26 S. E. 406. And it has also been held in actions brought under the Federal Employers' Liability Act that an instruction, which throws the door open to speculation and is such that the jury is no longer confined to a consideration of the financial benefits which the actual beneficiaries have received from the deceased, is erroneous. *Michigan Cent. Ry. Co.* v. *Vreeland, supra; Norfolk and Western Ry. Co.* v. *Holbrook, supra* (principal case). But instructions to the jury should be read as a whole and if objectionable expressions in the charge are explained and qualified by other parts of it, so as not to work injustice on the party objecting, the use of such expressions will not be ground for reversal. *Baltimore & P. Ry. Co.* v. *Mackey*, 157 U. S. 72, 39 L. Ed. 624. And a criticism of words will not be indulged in when the meaning of the instructions is plain and obvious and cannot mislead the jury. *Rogers* v. *The Marshal*, 1 Wall. 644, 17 L. Ed. 714; *Evanston* v. *Gunn*, 99 U. S. 660, 25 L. Ed. 306.

HIGHWAYS—OBSTRUCTION—SUIT BY PRIVATE PERSON.—The defendant erected buildings and fences on a public highway. On account of these obstructions the plaintiff was compelled to take a longer and circuitous route on his trips to town. He brought suit to enjoin this obstruction of the highway. *Held,* no injunction will lie, since the plaintiff had suffered no special damage. *Borton* v. *Mangus* (Kan.), 145 Pac. 835.

The obstruction of a highway is a public nuisance, and the remedy for it is ordinarily a public prosecution. *Thayer* v. *Boston*, 19 Pick. 511, 31 Am. Dec. 157. Before a private person can maintain an action for such a nuisance, he must have sustained some special damage. *Thayer* v. *Boston, supra; Storm* v. *Barger*, 43 Ill. 173. It is commonly said that the damage must be different in kind from that suffered by the general public, mere difference in degree not being sufficient. See *Hartshorn* v. *Inhabitants of Reading*, 3 Allen 501; *McCowan* v. *Whitesides*, 31 Ind. 235. This test, however, is somewhat difficult of application, as the diversity of the holdings on the subject show. Whether a person suf-

fers special damage in being forced by an obstruction in the highway to take a longer route to his destination is a question on which the courts are divided. One line of authority holds that it is not special damage, and denies relief to a private person in such cases. *Houck* v. *Wachter,* 34 Md. 265; *Shero* v. *Carey,* 35 Minn. 423, 29 N. W. 58; *George* v. *Peckham,* 73 Neb. 794, 103 N. W. 664. Other courts declare the damage to be special and grant the relief asked. *Wakeman* v. *Wilbur,* 147 N. Y. 657, 42 N. E. 341; *Knowles* v. *Pennsylvania R. Co.,* 175 Pa. St. 623, 34 Atl. 974, 52 Am. St. Rep. 860; *Hill* v. *Hoffman* (Tenn. Ch. App.), 58 S. W. 929. The relief may be either damages or an injunction, according to the form of the action. *Brown* v. *Watson,* 47 Me. 161; *Wakeman* v. *Wilbur, supra.*

An advantage of the rule denying relief to a private person in this class of cases seems to be that it discourages a multiplicity of suits. See *Thayer* v. *Boston, supra.* But it would seem that the *contra* rule tends to a more efficient protection of private rights. See *Sloss-Sheffield Steel Co.* v. *Johnson,* 147 Ala. 384, 41 South. 907, 119 Am. St. Rep. 89, 8 L. R. A. (N. S.) 226.

HUSBAND AND WIFE—ANTENUPTIAL DEBTS—EFFECT OF INTERMARRIAGE.—The plaintiff, a woman, borrowed money of the defendant, giving a mortgage as security. Subsequently, the debt being still unpaid, the plaintiff married the defendant; and brought suit to cancel the mortgage, on the ground that the debt was extinguished by marriage. *Held,* the debt is not extinguished. *McKie* v. *McKie* (Ark.), 172 S. W. 891.

It is a general rule at common law, that debts contracted by husband and wife with each other prior to marriage are extinguished upon their intermarriage, and not merely suspended. *Rogers* v. *Wolfe,* 104 Mo. 1, 14 S. W. 805; *Burleigh* v. *Coffin,* 22 N. H. 118, 53 Am. Dec. 236; 1 BLACKSTONE, COMM. 442. For the reason that the identity of the wife has been merged in that of the husband, and consequently a confusion of debtor and creditor arises. *Fox* v. *Johnson,* 4 Del. Ch. 580. See *Suttles* v. *Whitlock,* 4 Mon. (Ky.), 451. Since extinguished, a divorce can not subsequently revive the obligation. *Farley* v. *Farley,* 91 Ky. 497, 16 S. W. 129. Yet even at common law there were several recognized exceptions to the rule. Thus where the debt is owed one of the parties in a representative capacity. *King* v. *Green,* 2 Stew. (Ala.) 133, 19 Am. Dec. 46. Or in the case of a marriage settlement, which is upheld in equity. *Crostwaight* v. *Hutchinson,* 2 Bibb (Ky.) 407, 5 Am. Dec. 619; *Bennett* v. *Winfield,* 4 Heisk. (Tenn.) 440. In England an exception is also made where the obligation is not to become effective until the expiration of the coverture. *Cage* v. *Acton,* I Ld. Raym. 515; *Millbourn* v. *Ewart,* 5 T. R. 381. And there are *dicta* pointing to an acceptance of this doctrine in this country. See *Long* v. *Kinney,* 49 Ind. 235; *Bennett* v. *Winfield, supra.* The effect of modern statutes on this doctrine of the common law depends upon the extent to which the particular statute in question has abolished the legal fiction of the unity of husband and wife; for where not superseded by statute, the common law incidents of coverture are still in force. *Schilling* v. *Dar-*